

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DURVEN CARL DAWES,

Plaintiff,

-against-

NEW YORK CITY HOUSING AUTHORITY,
ET AL.,

Defendants.

20-CV-1417 (JGK)

ORDER OF SERVICE

JOHN G. KOELTL, United States District Judge:

The plaintiff, appearing pro se and in forma pauperis (IFP), filed the original complaint in this action on February 18, 2020. By order dated April 30, 2020, the Court directed the U.S Marshals Service to effect service on the defendants NYCHA, Karen Moye, Diana Fong, Phillip Lorrnine, and Yelena Kogan. The Court's order also granted the plaintiff leave to file an amended complaint to allege facts showing the personal involvement of the remaining defendants named in the original complaint. (ECF 7.) The defendants NYCHA, Moye, Kogan, Lorrnine, and Fong were served on June 4, 2020. (ECF 9-13.) On June 29, 2020, the plaintiff filed an amended complaint which omitted several of the defendants named in the original complaint. (ECF 14.) Because it was unclear whether the plaintiff intended to omit these defendants, by order dated February 9, 2021, the Court granted the plaintiff leave to file a second amended complaint that includes all claims against all

defendants that the plaintiff wishes to proceed with in this matter. (ECF 17.) On February 25, 2021, the plaintiff filed a second amended complaint, which included some of the defendants omitted from the amended complaint, omitted other previously-named defendants, and added several new defendants.

DISCUSSION

A. Service on the new defendants

Because the plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. Walker v. Schult, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); see also 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summonses and complaint be served within 90 days of the date the complaint is filed, the plaintiff is proceeding IFP and could not have served the summonses and second amended complaint until the Court reviewed the second amended complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date the summonses are issued. If the second amended complaint is not served within that time, the plaintiff should request an extension of time for service. See Meilleur v.

Strong, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); see also Murray v. Pataki, 378 F. App'x 50, 52 (2d Cir. 2010) ("As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow the plaintiff to effect service on the defendants Mayor Bill de Blasio, Shola Olatoye, Shang Scaborough, Binal Jones, Hector Ramos, Ms. Brown, Anita Lal, Monique McLeod, Ms. Logan, Kimberly Taylor, Paul Sebastian, Mohammed Subair, Lynette Hill, and Mr. Smith through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for each of these defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

The plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if the plaintiff fails to do so.

B. John Doe defendants

The plaintiff names seven unidentified John Doe defendants in the caption of his complaint but does not plead any facts in the body of the complaint about what any of these defendants did or failed to do that violated his rights. A pro se litigant is entitled under Valentin v. Dinkins, to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). But the plaintiff does not supply sufficient information that would allow identification of these defendants. Thus, the Court declines at this time to issue a Valentin order as to these defendants but will revisit the matter at a later date, if necessary.

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff.

The Clerk of Court is further instructed to issue summonses, complete the USM-285 forms with the addresses for Mayor Bill de Blasio, Shola Olatoye, Shang Scaborough, Binal Jones, Hector Ramos, Ms. Brown, Anita Lal, Monique McLeod, Ms. Logan, Kimberly Taylor, Paul Sebastian, Mohammed Subair, Lynette Hill, and Mr. Smith, and deliver to the U.S. Marshals Service all documents necessary to effect service on these defendants.

The Court declines at this time to issue a Valentin order as to John Does 1-7, but will revisit the matter at a later date, if necessary.

SO ORDERED.

Dated: March 15, 2021
New York, New York

/s/ John G. Koeltl
JOHN G. KOELTL
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Shola Olatoye
250 Broadway 9th Floor
New York, NY 10007
2. Shang Scaborough, Manager
New York City Housing Authority
250 Broadway 9th Floor
New York, NY 10007
3. Binal Jones, Property Manager
New York City Housing Authority
250 Broadway 9th Floor
New York, NY 10007
4. Hector Ramos, Hearing Officer
New York City Housing Authority
250 Broadway 9th Floor
New York, NY 10007
5. Ms. Brown, Manager
New York City Housing Authority
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6. Anita Lal, Manager
New York City Housing Authority
250 Broadway 9th Floor
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7. Monique McLeod
New York City Housing Authority
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8. Ms. Logan, Housing Assistance
New York City Housing Authority
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9. Kimberly Taylor
New York City Housing Authority
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10. Paul Sebastian, Housing Assistance
New York City Housing Authority
250 Broadway 9th Floor
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11. Mohammed Subair, Housing Assistance
New York City Housing Authority
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12. Lynette Hill
New York City Housing Authority
250 Broadway 9th Floor
New York, NY 10007
13. Mr. Smith, Repairs
New York City Housing Authority
250 Broadway 9th Floor
New York, NY 10007
14. Mayor Bill de Blasio
City Hall
New York, NY 10007